

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
FOLEY SQUARE DIVISION**

CASE NO.: 1:22-cv-9572

BLACK + GOLD CORPORATION,

Plaintiff,

v.

A360 MEDIA, LLC DBA MEN'S JOURNAL,

Defendant.

**COMPLAINT FOR COPYRIGHT INFRINGEMENT
(INJUNCTIVE RELIEF DEMANDED)**

Plaintiff BLACK + GOLD CORPORATION by and through its undersigned counsel, brings this Complaint against Defendant A360 MEDIA, LLC DBA MEN'S JOURNAL for damages and injunctive relief, and in support thereof states as follows:

SUMMARY OF THE ACTION

1. Plaintiff BLACK + GOLD CORPORATION (“B+G”) brings this action for violations of exclusive rights under the Copyright Act, 17 U.S.C. § 106, to copy and distribute B+G’s original copyrighted Work of authorship.

2. BLACK + GOLD is a creative social media and photography marketing agency. Their goal is to elevate brand narratives with custom photography and grow social media accounts through a curated, data-driven approach to management. B+G’s full suite of services also includes social media ad management and micro-influencer development, and social content production. They work with brands spanning a diverse range of consumer product goods, from fashion to beauty to wellness and beyond.

3. Defendant A360 MEDIA, LLC DBA MEN'S JOURNAL (“A360”) is an American publisher of magazines, supermarket tabloids, and books based in New York City. Originally affiliated with only the National Enquirer, the media company's holdings expanded considerably in the 1990s and 2000s. At all times relevant herein, A360 owned and operated the internet website located at the URL <https://www.mensjournal.com> (the “Website”).

B+G alleges that A360 copied B+G’s copyrighted Work from the internet in order to advertise, market and promote its business activities. A360 committed the violations alleged in connection with A360’s business for purposes of advertising and promoting sales to the public in the course and scope of the A360’s business.

JURISDICTION AND VENUE

5. This is an action arising under the Copyright Act, 17 U.S.C. § 501.

6. This Court has subject matter jurisdiction over these claims pursuant to 28 U.S.C. §§ 1331, 1338(a).

7. Defendant is subject to personal jurisdiction in New York.

8. Venue is proper in this district under 28 U.S.C. § 1391(b) and (c) and 1400(a) because the events giving rise to the claims occurred in this district, Defendant engaged in infringement in this district, Defendant resides in this district, and Defendant is subject to personal jurisdiction in this district.

DEFENDANT

9. A360 Media, LLC dba Men's Journal is a Delaware Limited Liability Company, with its principal place of business at 4 New York Plaza, Second floor, New York, NY 10004, and can be served by serving its Registered Agent, The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, DE 19801.

THE COPYRIGHTED WORK AT ISSUE

In 2017, B+G created the photograph entitled “1376_Rhone825”, which is shown below and referred to herein as the “Work”.



B+G registered the Work with the Register of Copyrights on April 11, 2018 and was assigned the registration number VA 2-098-383. The Certificate of Registration is attached hereto as Exhibit 1.

B+G’s Work is protected by copyright but is not otherwise confidential, proprietary, or trade secrets.

13. At all relevant times B+G was the owner of the copyrighted Work at issue in this case.

INFRINGEMENT BY DEFENDANT

14. A360 has never been licensed to use the Work at issue in this action for any purpose.

15. On a date after the Work at issue in this action was created, but prior to the filing of this action, A360 copied the Work.

16. On or about February 10, 2020, B+G discovered the unauthorized use of its Work on the Website. The Work was used in a slideshow on the Website called “This Brand has the Coolest New Apparel for Active Guys”.

17. A360 copied B+G’s copyrighted Work without B+G’s permission.

18. After A360 copied the Work, it made further copies and distributed the Work on the internet to promote the sale of goods and services as part of its regular business activities.

19. A360 copied and distributed B+G’s copyrighted Work in connection with A360’s business for purposes of advertising and promoting A360’s business, and in the course and scope of advertising and selling products and services.

20. B+G’s Works are protected by copyright but are not otherwise confidential, proprietary, or trade secrets.

21. A360 committed copyright infringement of the Work as evidenced by the documents attached hereto as Exhibit 2.

22. B+G never gave A360 permission or authority to copy, distribute or display the Work at issue in this case.

23. B+G notified A360 of the allegations set forth herein on March 8, 2022 and March 31, 2022. To date, A360 has failed to respond to Plaintiff’s Notices.

COPYRIGHT INFRINGEMENT

24. B+G incorporates the allegations of paragraphs 1 through 23 of this Complaint as if fully set forth herein.

25. B+G owns a valid copyright in the Work at issue in this case.

26. B+G registered the Work at issue in this case with the Register of Copyrights pursuant to 17 U.S.C. § 411(a).

27. A360 copied, displayed, and distributed the Work at issue in this case and made derivatives of the Work without B+G's authorization in violation of 17 U.S.C. § 501.

28. A360 performed the acts alleged in the course and scope of its business activities.

29. A360's acts were willful.

30. B+G has been damaged.

31. The harm caused to B+G has been irreparable.

WHEREFORE, the Plaintiff Black + Gold Corporation prays for judgment against the Defendant A360 Media, LLC dba Men's Journal that:

a. Defendant and its officers, agents, servants, employees, affiliated entities, and all of those in active concert with them, be preliminarily and permanently enjoined from committing the acts alleged herein in violation of 17 U.S.C. § 501;

b. Defendant be required to pay Plaintiff its actual damages and A360's profits attributable to the infringement, or, at Plaintiff's election, statutory damages, as provided in 17 U.S.C. § 504;

Plaintiff be awarded its attorneys' fees and costs of suit under the applicable statutes sued upon;

d. Plaintiff be awarded pre- and post-judgment interest; and

e. Plaintiff be awarded such other and further relief as the Court deems just and proper.

JURY DEMAND

Plaintiff hereby demands a trial by jury of all issues so triable.

DATED: November 9, 2022

Respectfully submitted,

/s/ Joseph A. Dunne

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